

Remarks

At the time of the Office Action, claims 1-18 were pending. Claims 1-18 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,167,469 to Safai et al. (hereinafter Safai) in view of U.S. Patent No. 5,555,194 to Cok (hereinafter Cok).

In the instant amendment claims 1-6 are canceled without prejudice, claims 7 and 8 are amended, and claims 9-18 remain unchanged. Furthermore, new claims 19-24 are submitted. The Applicant submits that the claim amendments and newly-submitted claims are fully supported by the specification (see, for example, FIGS. 5, 11 and 12 along with the corresponding description thereof) and introduce no new matter. Accordingly, entry of the amendments and newly-submitted claims is respectfully requested.

As an initial matter, the Applicant traverses the rejection of as-filed claims 9-18 and requests reconsideration in view of the following remarks. In rejecting claims 9-18 the Office Action cites to Safai as disclosing a digital camera with onboard image editing tools including retouching. However, the Office Action admits that, “Safai does not teach of the particular retouching features...” To cure Safai in this regard, the Office Action cites to Cok as teaching “the typical approach for retouching images, which is often referred to as cloning or “rubber stamping” (from Photoshop).” In particular, the Office Action cites to col. 1, line 21-col. 2, line 30 of Cok as disclosing various functional/operational features recited in claims 9-18.

Although Cok may describe some of the functional/operation features of claims 9-18, the Office Action fails to point out where any of the expressly recited structural features of claims 9-18 are disclosed, taught, suggested or contemplated in Safai, Cok. In an example, the Office Action rejects claim 9 but does not provide any detail as to where the structural features recited in claim 9 (i.e., a region recognition unit and a region retouch unit) can be found in Safai or Cok. In another example, the Office Action rejects claim 11 but does not provide any detail as to where the structural features recited in claim 11 (i.e., a filter window forming unit, a filter window moving unit, a region copying unit and a color information substituting unit) can be found in Safai or Cok. Similar examples can be made for claims 13-18 which recite various additional structural features. The Applicant has thoroughly reviewed Safai, Cok and the other cited art of record and respectfully submits that the various expressly recited units, which are shown in FIGS. 6-10 of the present application, are not taught, disclosed, suggested or contemplated.

According to MPEP 2143.03, “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, MPEP 2143.03 states, “***All words in a claim must be considered*** in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).” (emphasis added) Since the Office Action has focused on the functional/operational language of claims 9-18 and has not treated all words in claims 9-18, particularly the structural features that are expressly recited (i.e., the various units), the Applicant submits that the Office has not established *prima facie* obviousness of the claims and requests favorable reconsideration and withdrawal of the rejection of claims 9-18.

Since the cited art of record does not disclose, teach, suggest or contemplate the structural features of claims 9-18, the Applicant submits that claims 9-18 are allowable. However, in the event that the Office maintains the rejection of claims 9-18, the Applicant respectfully requests that the Office either identify where in the cited art of record the foregoing structural features are taught, disclosed or suggested, or apply new art against each feature of each rejected claim, on the record, and with specificity sufficient to support a *prima facie* case of obviousness.

Turning now to the rejection of as-filed claims 1-8, the Applicant traverses this rejection and respectfully disagrees with the allegation in the Office Action that the combination of Safai and Cok renders obvious claims 1-8. Nevertheless, claims 7 and 8 are amended, and claims 1-6 are canceled without prejudice. The Applicant reserves the right to present claims 1-6 (or claims of similar or different scope) in a continuing application.

Claims 7 and 8 have been amended to more particularly claim the Applicant’s method and distinguish over the combination of Safai and Cok. Claim 7 is amended to include, *inter alia*, the steps of:

- (a) determining if a user has formed a magnifying window on a portion of the image being displayed on the display;
- (b) expanding the portion of the image in the magnifying window, said portion of the image defining an expanded image region including an impurity to be retouched; and
- (c) determining if the user has identified a detailed retouch region in the expanded image region, said detailed retouch region enclosing the impurity to be retouched.

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The Applicant has thoroughly reviewed Safai, Cok and the other cited art of record and respectfully submits that the foregoing steps (a)-(c), particularly step (c) of expanding, are not taught, disclosed, suggested or contemplated. To this end, the Applicant submits that claims 7 and 8 are allowable.

Turning now to newly-submitted claims 19-24, the Applicant submits that these claims more particularly and distinctly recite the Applicant's retouching method. To distinguish over the cited art of record, taken alone or in combination, new independent claim 19 more positively recites the steps of the method in view of, *inter alia*, FIG. 12 of the present application. In particular, the Applicant respectfully submits that the cited art of record does not disclose, teach, suggest or contemplate using a magnifying step during a retouching operation. Accordingly, the Applicant submits that claims 19-24 are allowable.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO OFFICE ACTION OF MAY 24, 2007 (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date: August 23, 2007



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